

HOUSE BILL No. 1014(ss)

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1; IC 36-6-1-6.

Synopsis: Alteration and formation of townships. Allows a township to become part of a contiguous township in the county if the transfer is approved by a referendum in the township seeking transfer. Allows one or more election precincts or a municipality to become part of a contiguous township in the county if the transfer is approved by a referendum in the election precincts or municipality seeking transfer. Allows one or more election precincts or a municipality to become a new township if the formation of the new township is approved by a referendum in the election precincts or municipality seeking transfer. Repeals the provision imposing minimum size or valuation requirements on a newly created or altered township.

Effective: July 1, 2009.

Stevenson

June 23, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

Special Session 116th General Assembly (2009)(ss)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1014

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-1-1.4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:

4 **Chapter 1.4. Transfer of Township Territory to a Contiguous**
5 **Township**

6 **Sec. 1. As used in this chapter, "order" refers to an ordinance**
7 **adopted by the county executive under section 10 of this chapter**
8 **that orders the alteration of township boundaries.**

9 **Sec. 2. As used in this chapter, "recipient township" refers to a**
10 **township to which another township is transferred under this**
11 **chapter.**

12 **Sec. 3. As used in this chapter, "transferring township" refers**
13 **to a township that becomes part of a contiguous township under**
14 **this chapter.**

15 **Sec. 4. A township may become part of a contiguous township**
16 **within the county as provided in this chapter.**

17 **Sec. 5. The alteration of township boundaries must be submitted**

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to a local public question. The local public question may be held only if a petition signed by at least ten percent (10%) of the voters residing in the transferring township is submitted to the circuit court clerk requesting that a local public question be placed on the ballot.

Sec. 6. If the circuit court clerk determines that a petition submitted under section 5 of this chapter has a sufficient number of signatures, the county election board shall place the following question on the ballot in accordance with IC 3-10-9:

"Shall (insert the name of the township) become a part of (insert name of township)?".

Sec. 7. (a) The county election board shall place the local public question on the ballot during the next general election or primary election for which the question may be certified under IC 3-10-9-3 in the transferring township.

(b) The circuit court clerk shall determine the registered voters residing within the transferring township. The circuit court clerk shall submit the information to the county election board.

Sec. 8. If a majority of the votes cast on the public question by the voters of the transferring township are:

- (1) not in favor of becoming part of a contiguous township, the township may not become part of the contiguous township; or
- (2) in favor of becoming part of a contiguous township, the township shall become part of the contiguous township.

Sec. 9. (a) After an election under section 7 of this chapter, the clerk of the county shall:

- (1) make a certified copy of the election returns; and
- (2) not later than five (5) days after the election, file the copy with the county auditor.

(b) The county auditor shall, not later than five (5) days after the returns are filed in the county auditor's office:

- (1) make a true and complete copy of the returns, certified by the county auditor; and
- (2) deposit the copy of the returns with the county executive and the township executive of the transferring township and recipient township.

Sec. 10. This section applies if the voters of a transferring township vote in favor of becoming part of a contiguous township. After receiving a copy of the returns under section 9 of this chapter, the county executive shall adopt an ordinance ordering an alteration of the recipient township's boundaries conforming to the

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terms of the petition. The county executive shall file a copy of the ordinance with:

- (1) the circuit court clerk; and
- (2) the office of the secretary of state.

Sec. 11. Except as provided in section 12 of this chapter, an order becomes effective on the later of:

- (1) the date specified in the ordinance; or
- (2) the date the county executive files the ordinance under section 10 of this chapter.

Sec. 12. An order may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

Sec. 13. An election under this chapter may be held only once every three (3) years.

Sec. 14. (a) The following occur on the effective date of the order:

- (1) The township government of the transferring township is abolished.
- (2) The geographical boundaries of the recipient township include all the territory of the recipient township and the transferring township.
- (3) The offices, agencies, and departments of the transferring township are abolished, and the:
 - (A) property;
 - (B) records;
 - (C) equipment;
 - (D) personnel; and
 - (E) contracts;

of the township are transferred to the recipient township government.

- (4) Any bonds and other indebtedness of, or assumed by, the transferring township are transferred to the recipient township. However, the recipient township may levy property taxes to pay the indebtedness only within the former boundaries of the transferred township that incurred the indebtedness.

- (5) The recipient township retains its name.

(b) Notwithstanding subsection (a)(3)(D), the recipient township executive shall specify which transferring township employees that

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provided fire protection services and emergency services before the dissolution of the transferring township government under this chapter become employees of the recipient township responsible for fire protection services and emergency services.

(c) If the transferring township has a local board for the 1937 firefighters' pension fund or the 1977 police officers' and firefighters' pension and disability fund, that local board is dissolved on the effective date of the order, and the powers, duties, and responsibilities of the local board under IC 36-8-7 or IC 36-8-8, respectively, are assumed by the recipient township's local board for the 1937 firefighters' pension fund and the recipient township's local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the recipient township may adopt an ordinance to adjust the membership of the recipient township's local board to reflect the dissolution of the transferring township's local board.

(d) A recipient township shall levy property taxes (within the township's maximum permissible ad valorem property tax levy limit) as necessary to provide for the payment of pension benefits:

- (1) to members of the 1937 firefighters' pension fund; and
- (2) for which, before the dissolution of the transferring township government under this chapter, the local board of the transferring township was responsible.

Sec. 15. Notwithstanding any other law to the contrary, after the effective date of the order, the transferring township's distributive share of any state or local taxes or revenues (other than property taxes) is reduced to zero (0) and is transferred to the recipient township.

Sec. 16. (a) On the date the order becomes effective, the balance in a debt service fund of a transferring township:

- (1) is transferred to the recipient township; and
- (2) shall be used by the recipient township to pay indebtedness or lease rentals of the transferring township for which the fund was established.

Any balance remaining in the fund after all payments for indebtedness or lease rentals required under this section have been made shall be transferred to the recipient township's general fund.

(b) On the date the order becomes effective, the balance in a transferring township's cumulative building and equipment fund established under IC 36-8-14 for fire protection and related services:

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(1) is transferred to the recipient township; and

(2) shall be used by the recipient township to pay any indebtedness or lease rentals related to fire protection services due after the effective date of the order.

Any balance remaining in the fund after all payments for indebtedness or lease rentals required under this section have been made shall be transferred to the recipient township cumulative building and equipment fund.

(c) On the date the order becomes effective, the balance in a transferring township's general fund:

(1) is transferred to the recipient township; and

(2) shall be deposited in the recipient township general fund.

(d) On the date the order becomes effective, the balance in a transferring township's township assistance fund:

(1) is transferred to the recipient township; and

(2) shall be deposited in the recipient township assistance fund.

(e) The department of local government finance shall determine the amounts to be transferred under this section.

Sec. 17. The department of local government finance shall adjust as necessary the ad valorem property tax levy of the recipient township and the transferring township to reflect transfer of territory under this chapter.

SECTION 2. IC 36-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 1.5. Transfer of Election Precinct or Municipality to a Contiguous Township

Sec. 1. As used in this chapter, "order" refers to an ordinance adopted by the county executive under section 12 of this chapter that orders the alteration of township boundaries.

Sec. 2. As used in this chapter, "recipient township" refers to a township to which an election precinct or municipality is transferred under this chapter.

Sec. 3. As used in this chapter, "transferring municipality" or "transferring precinct" refers to a municipality or an election precinct that becomes part of a contiguous township under this chapter.

Sec. 4. Any of the following may become part of a contiguous township within the county as provided in this chapter:

(1) One (1) or more election precincts, but less than an entire township.

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(2) A municipality.

Sec. 5. For purposes of this chapter, the boundaries of an election precinct or municipality are the boundaries as of the date a petition is submitted to the circuit court clerk requesting that a local public question be placed on the ballot.

Sec. 6. The alteration of township boundaries under this chapter must be submitted to a local public question. The local public question may be held only if a petition signed by at least ten percent (10%) of the voters residing in each transferring precinct or municipality is submitted to the circuit court clerk requesting that a local public question be placed on the ballot.

Sec. 7. If the circuit court clerk determines that a petition submitted under section 6 of this chapter has a sufficient number of signatures, the county election board shall place the following question on the ballot in accordance with IC 3-10-9:

"Shall (insert the name of the precinct and township or the name of the municipality) become a part of (insert the name of township)?".

In the case of a precinct, the local public question must generally describe the boundaries of the precinct by streets, rivers, and other similar boundaries that are known by common names and, where this is not possible, by section lines or other legal descriptions.

Sec. 8. The county election board shall place the local public question on the ballot during the next general election or primary election for which the question may be certified under IC 3-10-9-3 in each transferring precinct.

Sec. 9. The circuit court clerk shall determine the registered voters residing within the transferring precinct or municipality. The circuit court clerk shall submit the information to the county election board.

Sec. 10. If a majority of the votes cast on the public question by voters of the transferring precinct or municipality are:

- (1) not in favor of becoming part of a contiguous township, the election precinct or municipality may not become part of the contiguous township; or
- (2) in favor of becoming part of a contiguous township, the election precinct or municipality shall become part of the contiguous township.

Sec. 11. (a) After an election under section 8 of this chapter, the clerk of the county shall:

- (1) make a certified copy of the election returns; and
- (2) not later than five (5) days after the election, file the copy

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with the county auditor.

(b) The county auditor shall, not later than five (5) days after the returns are filed in the county auditor's office:

(1) make a true and complete copy of the returns, certified by the county auditor; and

(2) deposit the copy of the returns with the:

(A) county executive;

(B) township executive of the township in which the transferring precinct or municipality is located;

(C) recipient township; and

(D) executive of the transferring municipality, if applicable.

Sec. 12. This section applies if the voters of a transferring precinct or municipality vote in favor of becoming part of a contiguous township. After receiving a copy of the returns under section 11 of this chapter, the county executive shall adopt an ordinance ordering an alteration of the boundaries of the township in which the transferring precinct or municipality is located and the recipient township, conforming to the terms of the petition. The county executive shall file a copy of the ordinance with:

(1) the circuit court clerk; and

(2) the office of the secretary of state.

Sec. 13. Except as provided in section 14 of this chapter, an order becomes effective on the later of:

(1) the date specified in the ordinance; or

(2) the date the county executive files the ordinance under section 12 of this chapter.

Sec. 14. An order may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

Sec. 15. An election under this chapter may be held only once every three (3) years.

Sec. 16. (a) The following occur on the effective date of the order:

(1) The geographical boundaries of the recipient township include all the territory of the recipient township and the transferred precinct or municipality.

(2) The recipient township retains its name.

(b) If the township from which an election precinct or

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1 municipality is transferred is indebted or has outstanding unpaid
 2 bonds or other obligations at the time the order becomes effective,
 3 the recipient township is liable for and shall pay that indebtedness
 4 in the same ratio as the assessed valuation of the property in the
 5 transferred election precinct or municipality bears to the assessed
 6 valuation of all property in the township from which the precinct
 7 or municipality is transferred, as shown by the most recent
 8 assessment for taxation before the transfer.

9 (c) If the indebtedness consists of outstanding unpaid bonds or
 10 notes of the township from which a precinct or municipality is
 11 transferred, the payments to the township shall be made as the
 12 principal or interest on the bonds or notes becomes due. However,
 13 the recipient township may levy property taxes to pay the
 14 indebtedness only within the former boundaries of the transferring
 15 precinct or municipality.

16 Sec. 17. The department of local government finance shall
 17 adjust as necessary the ad valorem property tax levy of the:

18 (1) township from which the precinct or municipality is
 19 transferred; and

20 (2) recipient township;

21 to reflect a transfer of territory under this chapter.

22 SECTION 3. IC 36-1-1.6 IS ADDED TO THE INDIANA CODE
 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2009]:

25 Chapter 1.6. Establishing a New Township

26 Sec. 1. As used in this chapter, "order" refers to an ordinance
 27 adopted by the county executive under section 11 of this chapter
 28 that orders the alteration of township boundaries and creates a
 29 new township.

30 Sec. 2. As used in this chapter, "transferring municipality" or
 31 "transferring precinct" refers to a municipality or an election
 32 precinct that becomes a new township or part of a new township.

33 Sec. 3. One (1) or more contiguous election precincts or a
 34 municipality may form a separate township within the county as
 35 provided in this chapter.

36 Sec. 4. For purposes of this chapter, the boundaries of an
 37 election precinct or municipality are the boundaries as of the date
 38 a petition is submitted to the circuit court clerk requesting that a
 39 local public question be placed on the ballot.

40 Sec. 5. The alteration of township boundaries under this chapter
 41 must be submitted to a local public question. The local public
 42 question may be held only if a petition signed by at least ten

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percent (10%) of the voters residing in each transferring precinct or municipality is submitted to the circuit court clerk requesting that a local public question be placed on the ballot.

Sec. 6. If the circuit court clerk determines that a petition submitted under section 5 of this chapter has a sufficient number of signatures, the county election board shall place the following question on the ballot in accordance with IC 3-10-9:

"Shall (insert the name of the precinct and township or the name of the municipality) become a separate township?".

In the case of a precinct, the local public question must generally describe the boundaries of the precinct by streets, rivers, and other similar boundaries that are known by common names and, where this is not possible, by section lines or other legal descriptions.

Sec. 7. The county election board shall place the local public question on the ballot during the next general election or primary election for which the question may be certified under IC 3-10-9-3 in each transferring precinct or municipality.

Sec. 8. The circuit court clerk shall determine the registered voters residing within the transferring precinct or municipality. The circuit court clerk shall submit the information to the county election board.

Sec. 9. If a majority of the votes cast on the public question by the voters of a transferring precinct or municipality are:

- (1) not in favor of becoming a new township, the election precinct or municipality may not become a township; or
- (2) in favor of becoming a new township, the election precinct or municipality shall become a township.

Sec. 10. (a) After an election under section 7 of this chapter, the clerk of the county shall:

- (1) make a certified copy of the election returns; and
- (2) not later than five (5) days after the election, file the copy with the county auditor.

(b) The county auditor shall, not later than five (5) days after the returns are filed in the county auditor's office:

- (1) make a true and complete copy of the returns, certified by the county auditor; and
- (2) deposit the copy of the returns with the:
 - (A) county executive;
 - (B) township executive of the township in which the transferring precinct or municipality is located; and
 - (C) executive of the transferring municipality, if applicable.

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1 **Sec. 11. (a) This section applies if the voters of a precinct or**
 2 **municipality vote in favor of becoming a new township. After**
 3 **receiving a copy of the returns under section 10 of this chapter, the**
 4 **county executive shall adopt an ordinance ordering:**

5 **(1) an alteration of the boundaries of the township from which**
 6 **the precinct or municipality is transferred to reflect the**
 7 **transfer of the election precinct or municipality; and**

8 **(2) the creation of a new township with boundaries**
 9 **conforming to all territory within each election precinct or**
 10 **municipality that approves the transfer under section 9 of this**
 11 **chapter.**

12 **(b) The county executive shall file a copy of the ordinance with:**

13 **(1) the circuit court clerk; and**

14 **(2) the office of the secretary of state.**

15 **Sec. 12. Except as provided in section 13 of this chapter, an**
 16 **order becomes effective on the later of:**

17 **(1) the date specified in the ordinance; or**

18 **(2) the date the county executive files the ordinance under**
 19 **section 11 of this chapter.**

20 **Sec. 13. An order may not take effect during the year preceding**
 21 **a year in which a federal decennial census is conducted. An order**
 22 **that would otherwise take effect during the year preceding a year**
 23 **in which a federal decennial census is conducted takes effect**
 24 **January 2 of the year in which a federal decennial census is**
 25 **conducted.**

26 **Sec. 14. An election under this chapter may be held only once**
 27 **every three (3) years.**

28 **Sec. 15. (a) If the township from which an election precinct or**
 29 **municipality is transferred is indebted or has outstanding unpaid**
 30 **bonds or other obligations at the time the transfer is effective, the**
 31 **new township is liable for and shall pay that indebtedness in the**
 32 **same ratio as the assessed valuation of the property in the**
 33 **transferred election precinct or municipality bears to the assessed**
 34 **valuation of all property in the township from which the precinct**
 35 **or municipality is transferred, as shown by the most recent**
 36 **assessment for taxation before the transfer.**

37 **(b) If the indebtedness consists of outstanding unpaid bonds or**
 38 **notes of the township from which a precinct or municipality is**
 39 **transferred, the payments to the township shall be made as the**
 40 **principal or interest on the bonds or notes becomes due.**

41 **Sec. 16. The officers of the new township shall:**

42 **(1) obtain from the department of local government finance**

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1 approval under IC 6-1.1-18.5-7 of:

2 (A) a budget;

3 (B) an ad valorem property tax levy; and

4 (C) a property tax rate;

5 (2) fix the annual budget under IC 6-1.1-17;

6 (3) impose a property tax levy; and

7 (4) take any action necessary to ensure the collection of fees
8 and other revenue;

9 for the new township for the budget year in which the order
10 becomes effective.

11 Sec. 17. The department of local government finance shall
12 adjust as necessary the ad valorem property tax levy of the
13 township from which the election precinct or municipality is
14 transferred to reflect a transfer of territory under this chapter.

15 SECTION 4. IC 36-6-1-6 IS REPEALED [EFFECTIVE JULY 1,
16 2009].

17 SECTION 5. An emergency is declared for this act.

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